

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Alexander Opoku-Agyemang	Team: Squad #5	CCRB Case #: 201504682	<input type="checkbox"/> Force	<input type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Friday, 05/29/2015 5:00 AM	Location of Incident: [REDACTED]	Precinct: 42	18 Mo. SOL 11/29/2016	EO SOL 11/29/2016	
Date/Time CV Reported Fri, 05/29/2015 6:03 AM	CV Reported At: IAB	How CV Reported: Phone	Date/Time Received at CCRB Tue, 06/09/2015 11:11 AM		

Complainant/Victim	Type	Home Address
[REDACTED]	[REDACTED]	[REDACTED]

Subject Officer(s)	Shield	TaxID	Command
1. Officers			
2. DTS David Terrell	29316	§ 87(2)(b)	042 PCT

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. POM Nicholas McGarry	05276	§ 87(2)(b)	042 PCT
2. SGT Adrian Uruci	03861	§ 87(2)(b)	INT CIS
3. DI Steven Ortiz	00000	§ 87(2)(b)	042 PCT

Officer(s)	Allegation	Investigator Recommendation
A . Officers	Abuse of Authority: Officers entered and searched § 87(2)(b) [REDACTED] in the Bronx.	A . § 87(2)(g) [REDACTED]
B . DTS David Terrell	Abuse of Authority: Det. David Terrell refused to show a search warrant to § 87(2)(b) [REDACTED].	B . § 87(2)(g) [REDACTED]
C . DTS David Terrell	Other: There is evidence suggesting Det. David Terrell provided a false official statement in violation of PG 203-08.	C . § 87(2)(g) [REDACTED]

Case Summary

At approximately 5:00 a.m. on May 29, 2015, officers from ESU, the Intelligence Division, and the 42nd Precinct executed a search warrant (BR01) at the apartment of § 87(2)(b) in the Bronx (Allegation A). No contraband was found during the search and no one was arrested. Following the search of the apartment, § 87(2)(b) requested the search warrant and a black male officer, identified via the investigation as Det. David Terrell of the 42nd Precinct, allegedly replied that it was in their vehicle downstairs and that he would bring it to § 87(2)(b) but never did so (Allegation B). Furthermore, the CCRB recommends that the NYPD conduct further investigation as there is evidence to suggest that Det. David Terrell provided a false official statement (Allegation C).

Mediation, Civil and Criminal Histories

§ 87(2)(b) has filed a Notice of Claim with the City of New York in regards to this incident, alleging that officers entered his residence without a search warrant and seeking a yet-to-be-determined amount as redress (BR02). § 87(2)(b) declined to resolve his complaint via mediation § 87(2)(b)

Civilian and Officer CCRB Histories

- § 87(2)(b)
- Det. Terrell has been a member of the NYPD for 13 years and has had 74 previous CCRB allegations in 32 cases with three substantiated allegations in two cases. In CCRB case # 200610262, a refusal to provide name and shield number allegation was substantiated against Det. Terrell. In CCRB case #200910811, allegations of discourtesy and refusal to provide name and shield number were substantiated against Det. Terrell. § 87(2)(g)

Findings and Recommendations

Allegations Not Pleaded

- Abuse of Authority: § 87(2)(b) alleged that officers damaged his door during the entry and pointed guns at him when they entered his bedroom. Allegations of property damage and gun pointed were subsumed into the entry and search allegation and were therefore not pleaded separately.

Recommendations

Allegation A – Abuse of Authority – Officers entered and searched

§ 87(2)(b) in the Bronx.

§ 87(2)(b) filed his initial complaint via telephone with the IAB on May 29, 2015, less than an hour after the incident concluded. He provided a telephone statement to the CCRB on June 10, 2015 (BR05), and a sworn statement on June 12, 2015. § 87(2)(g)

PO Nicholas McGarry of the 42nd Precinct was interviewed on July 22, 2015. Sgt. Adrian Uruci of the Intelligence Division and Det. Terrell were interviewed on August 12, 2015. Sgt. Uruci was the Field Intelligence Officer assigned to the 42nd Precinct and PO McGarry and Det. Terrell were his assistants.

It is undisputed that officers entered and searched § 87(2)(b)'s apartment on May 29, 2015. The investigation found that the entry was conducted in regards to a valid search warrant, search warrant § 87(2)(b), issued on § 87(2)(b) (BR01 & BR11). According to a UF-49 filed by the commanding officer of the 42nd Precinct, DI Steven Ortiz, in regards (BR06), the search warrant was requested in regards to an investigation into § 87(2)(b)'s son, § 87(2)(b) who, according to § 87(2)(b) resided with § 87(2)(b) but who was not home at the time the search warrant was executed. § 87(2)(g)

Allegation B – Abuse of Authority – Det. David Terrell refused to show a search warrant to § 87(2)(b)

It is undisputed that after ESU conducted the initial entry, they left § 87(2)(b)'s apartment and Sgt. Uruci and PO McGarry, both white males, and Det. Terrell, a black male, entered to conduct the search of the apartment. It is also undisputed that, at some point near the end of the search, after § 87(2)(b) had been brought out to the living room, he inquired about the search warrant. What is in dispute is how the officers responded to this inquiry.

§ 87(2)(b) stated that, after approximately 20 minutes of searching his apartment, the officers returned to the living room. § 87(2)(b) asked the officers who their sergeant was and one officer, identified via the investigation as Sgt. Uruci, responded that he was the sergeant. § 87(2)(b) asked for his name and Sgt. Uruci provided an “Italian-sounding” name that § 87(2)(b) had forgotten by the time of his statements to the CCRB. § 87(2)(b) asked why they were there and the black male officer, identified via the investigation as Det. Terrell, replied that they had been told that there were drugs in § 87(2)(b)'s apartment. § 87(2)(b) then asked them if they had a warrant or any kind of documentation to document why they were in his apartment. Det. Terrell replied that they had a warrant in their vehicle outside and that he would get it and bring it to him. The officers proceeded to leave the apartment. None of the officers ever returned with the warrant.

PO McGarry stated that, at some point, while he, Sgt. Uruci, and Det. Terrell were in living room with § 87(2)(b) asked to see their warrant. PO McGarry informed him that they did not have a copy of the warrant with them. PO McGarry did not hear either Sgt. Uruci or Det. Terrell give a response to § 87(2)(b) in regards to his request for the warrant. He did not hear either officer state that they had a copy of the warrant downstairs or in a vehicle and would bring it up to § 87(2)(b). PO McGarry stated that they did not have a copy of the warrant with them on this occasion and denied that they had a copy of the search warrant in a vehicle at the scene. PO McGarry, in his CCRB interview, stated that he did not believe that officers were required to take a copy of the warrant with them to search warrant executions or to show it to the residents of the location.

Sgt. Uruci stated that, after they finished searching the apartment, § 87(2)(b) asked who the

supervisor was and Sgt. Uruci identified himself as the supervisor. § 87(2)(b) asked whether they were looking for his son. Sgt. Uruci replied that they were not looking for his son and explained that they had a search warrant for his apartment. Sgt. Uruci never heard § 87(2)(b) ask him or any other officer to see the search warrant. However, once the officers arrived back at the 42nd Precinct, Det. Terrell informed Sgt. Uruci that he (Det. Terrell) had either shown or given a copy of the warrant to § 87(2)(b). Sgt. Uruci stated that he did not observe this occurrence between Det. Terrell and § 87(2)(b) and he did not know when during their time in the apartment that this occurred. Sgt. Uruci stated that the original copy of the search warrant is kept on file but that, when executing the warrant it is not required to bring a copy but that it is his procedure to always have one member of his team have a copy and show or give a copy to the residents of the location. On this occasion he did not recall which member of his team was responsible for doing so. Sgt. Uruci never heard Det. Terrell inform § 87(2)(b) that he would give the search warrant to him at some later point or that it was in a vehicle downstairs.

Det. Terrell stated that, upon entering the apartment, he and Sgt. Uruci went to speak to § 87(2)(b) who was sitting in a wheelchair in the living room. Det. Terrell informed § 87(2)(b) that they had a search warrant for his apartment. § 87(2)(b) asked to see a copy of the search warrant. Det. Terrell handed a copy of the search warrant to § 87(2)(b). Det. Terrell stated that it was his responsibility to carry a copy of search warrants when their team executes them. § 87(2)(b) read the search warrant and then asked why his § 87(2)(b)'s name was not listed on the warrant. Sgt. Uruci responded that the warrant was for the apartment not for him. Sgt. Uruci and § 87(2)(b) continued talking while Det. Terrell left them and went to the rest of the apartment to search. Det. Terrell stated that at the time he handed the search warrant to § 87(2)(b) only he and Sgt. Uruci were in the living room. He denied that he ever told § 87(2)(b) that they did not have a copy of the search warrant or that it was in a vehicle downstairs and that he would bring it later and never heard an officer tell him so. As the officers were leaving apartment, Det. Terrell observed § 87(2)(b) putting the copy of the search warrant that he had given to him into a manila envelope.

§ 87(2)(b) provided consistent accounts of this interaction across all three of his statements, one of which he provided minutes after the incident occurred, specifying that upon his request for the warrant, Det. Terrell replied that they had it in their vehicle and that he would bring it up to him. § 87(2)(g) PO McGarry stated that they did not have a copy of the warrant with them and that, when § 87(2)(b) asked about the warrant, he was informed of this fact. The primary difference in their accounts is that § 87(2)(b) alleged that the response was given to him by Det. Terrell while PO McGarry stated that he himself provided a response to § 87(2)(b)'s request, though PO McGarry noted that Det. Terrell was present when this exchange occurred.

§ 87(2)(g) The accounts of § 87(2)(b) PO McGarry, and Det. Terrell, all identified Sgt. Uruci as having been present when § 87(2)(b) requested the search warrant. Sgt. Uruci, however, denied having heard any such request. § 87(2)(g) He not only stated that they had a copy of the search warrant, but that he handed it to § 87(2)(b). Det. Terrell stated that Sgt. Uruci was present when this occurred. Sgt. Uruci denied having observed any such occurrence and stated that he only heard about it from Det. Terrell after the incident.

Patrol Guide Section 212-105 (BR07) requires that officers, “when able to do so safely, show a copy of the search warrant to any of the occupants of the premises.”

Given the fact that § 87(2)(b) identified him as the officer who responded to his request for the warrant and the fact that he identified himself as the officer responsible for carrying a copy of warrant, the allegation was pleaded against Det. Terrell.

§ 87(2)(g)

Allegation C – Other Misconduct – There is evidence suggesting Det. David Terrell provided a false official statement in violation of PG 203-08.

Patrol Guide Section 203-08 (BR08) prohibits officers from making false official statements, including during interviews pursuant to CCRB investigations.

§ 87(2)(b)

Det. Terrell’s statement that he had a copy of the search warrant and gave it to § 87(2)(b) is countered by the statement of PO McGarry, who stated that the officers did not have a copy of the search warrant with them and informed § 87(2)(b) that they did not. Det. Terrell’s statement that Sgt. Uruci was present when he handed the search warrant to § 87(2)(b) is countered by Sgt. Uruci’s statement that he observed no such occurrence and that he only heard about it from Det. Terrell after they returned to the stationhouse.

Furthermore, Det. Terrell’s statement that § 87(2)(b) was able to read the search warrant and ask follow-up questions in regards to what was written on the search warrant is incongruous with § 87(2)(b)’s assertion to the CCRB that he is legally blind, an assertion that was supported by the undersigned investigator’s observations of § 87(2)(b) when he appeared for his CCRB interview (BR09) and the difficulty he had in signing his verification form (BR10).

§ 87(2)(g)

§ 87(2)(g)

Pod: 5

Investigator: _____ Alexander Opoku-Agyemang October 6, 2015
Signature Print Date

Pod Leader: _____
Title/Signature Print Date

Attorney: _____
Title/Signature Print Date